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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,947	10/27/2000	Kiichiro Sakashita	198801US3	6701

22850 7590 04/08/2003

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EXAMINER

KEITH, JACK W

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

1. The reply filed on 1/27/2003 is not fully responsive to the prior Office Action because:

At the on set applicant's statement that no new matter has been added in regard to the amendment of 10/11/2002 is acceptable; however, it is not acceptable for the newly presented amendment of 1/27/2003. An explanation as to why is set forth below.

Applicant on page 5 of Paper no. 12 makes reference to the examiner misinterpreting the claim language in regard to the restriction/election of Paper no. 10 (section 5). Applicant refers to the newly amended claim 13 wherein "... an absorbing rod comprising a solid structure comprising one of an aluminum composite material and an aluminum alloy formed by adding, to aluminum or an aluminum alloy powder, a powdered boron or boron compound having a neutron absorbing performance, ...".

The amendment of 1/27/2003 contains new matter. Referring to original claim 3 (now canceled) "... an absorbing rod is composed of aluminum composite material or aluminum alloy formed by adding powder of boron or boron compound having a neutron absorbing performance to aluminum or an aluminum alloy powder." Referring now to applicant's amendment to the specification (see Paper no. 9, page 7 (amendment to specification page 14 beginning at line 16)). "The absorbing rod 11 is composed of aluminum composite material or aluminum alloy formed

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by adding powder of boron or of a boron compound having a neutron absorbing capability, to a powder of aluminum or of an aluminum alloy powder, ...”.

Thus, the neutron absorbing performance/capability of the boron or boron compound powder added to absorber rod is equivalent to that of the aluminum or an aluminum alloy powder. There was no misinterpretation of the claim language by the examiner.

Applicant is required to cancel the new matter of claim 13.

Applicant further did not provide an election of species for section 5-7 of Paper no. 10. As set forth in Paper no. 10 a reply to the restriction/election requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant further argued that he could not provide a single species election for sections 6 and 7 of Paper no. 10. It is not clear why applicant could not comply with the restriction/election requirement. The additional requirement is to facilitate examining due to the broad range of materials or compositions that can be included in the absorber rod. The various aluminum powders and alloys are listed in the specification (see page 16, lines 22+). While the various boron compounds are listed in the specification (see page 18, lines 3+).

Additionally note as previously pointed out in Paper no. 10 applicant's election of a PWR having boron as the neutron absorbing material would be unacceptable based upon the specification page 16, lines 10+. A neutron absorber for a BWR is a boron or boron compound; however, for a PWR the neutron absorber is a Ag-In-Cd compound. Interpretation of the

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specification as set forth by applicant in Paper no. 12 does not lead to the presumption that boron is applicable to both PWRs and BWRs. Thus, as set forth in the specification boron is applicable only to BWRs.

Applicant is required to cancel the new matter of claim 13 and provide an election commensurate with the scope of his claims as set forth in the restriction/election requirement of Paper no. 10.

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Keith whose telephone number is (703) 306-5752. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jack Keith
Examiner,
Art Unit 3641

jwk

April 3, 2003